

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLES O'CAIN,) CASE NO. C05-2124-JCC-MAT
Plaintiff,)
v.)
STEPHANIE MURRAY, et al.,) ORDER DENYING JOINT MOTION
Defendants.) AND AGREED ORDER TO ALTER
DEADLINES

This is a *pro se* civil rights action under 42 U.S.C. § 1983. Plaintiff alleges in his complaint that defendant Stephanie Murray, a Corrections Program Specialist at the King County Regional Justice Center ("RJC"), interfered with private phone calls between plaintiff and his attorney. Plaintiff further alleges that the King County Jail has a custom and policy of supervising all attorney calls for inmates on phone deadlock, and that deadlock inmates therefore have no private call privileges with their attorneys.

On April 20, 2006, the Court issued an Order Re: Pretrial Preparations in which it established certain pretrial deadlines. Among the deadlines set by the Court was a September 20, 2006, deadline for the parties to submit their joint pretrial statement to the Court. The parties

01 failed to comply with that deadline and, thus, the Court issued an Order on October 2, 2006, in
02 which it directed the parties to submit their joint pretrial statement not later than November 15,
03 2006.

04 On October 17, 2006, the parties filed a document entitled "Joint Motion and Agreed
05 Order to Alter Deadlines." In that document, the parties represented to the Court that upon
06 meeting to confer regarding the joint pre-trial statement, plaintiff expressed an interest in amending
07 his complaint and defendants agreed not to object so long as all other deadlines relevant to an
08 amended complaint were altered. On October 24, 2006, the Court received from plaintiff a
09 proposed amended complaint. Plaintiff, by way of his proposed amended complaint, seeks to add
10 the following new defendants to this action: Sue Rahr, King County Sheriff; Reed Holtgeerts,
11 Director of the King County Department of Adult and Juvenile Detention (KCD AJD); Hikari
12 Tamura, identified only as the "Chief of Administration"; and, Bob Deneui, Corrections Program
13 Administrator Supervisor at the RJC.

14 In order to sustain a civil rights action, a plaintiff must show (1) that he suffered a violation
15 of rights protected by the Constitution or created by federal statute, and (2) that the violation was
16 proximately caused by a person acting under color of state or federal law. *See Crumpton v. Gates*,
17 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, plaintiff must allege facts
18 showing how individually named defendants caused or personally participated in causing the harm
19 alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981). A defendant
20 cannot be held liable solely on the basis of supervisory responsibility or position. *Monell v.*
21 *Department of Social Servs., of City of New York*, 436 U.S. 658, 691-694 (1978). Rather, a
22 plaintiff must allege that a defendant's own conduct violated the plaintiff's civil rights. *City of*

01 *Canton, Ohio v. Harris*, 489 U.S. 378, 385-90 (1989).

02 While plaintiff suggests that the proposed new defendants were somehow responsible for
03 the constitutional violations alleged in his proposed amended complaint, he alleges no facts
04 demonstrating that any of these individuals personally participated in causing him harm of
05 constitutional dimensions. As plaintiff has not adequately alleged a cause of action against any of
06 the proposed new defendants, plaintiff will not be permitted to amend his complaint. And, since
07 plaintiff will not be permitted to amend his complaint, there is no reason to alter the Court's
08 previously established deadlines, with the exception of the deadline for the filing of the joint
09 pretrial statement.

10 Accordingly, the Court does hereby ORDER as follows:

- 11 (1) The parties' joint motion and agreed order to alter deadlines (Dkt. No. 29) is
12 DENIED.
- 13 (2) The parties are directed to file their joint pretrial statement not later than
14 ***January 16, 2007.***
- 15 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants,
16 and to the Honorable John C. Coughenour.

17 DATED this 30th day of November, 2006.

18 
19 Mary Alice Theiler
20 United States Magistrate Judge
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